

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

Darwin Johnson; Latonja D. Johnson; )  
Brenda J. Mathis, )

Plaintiffs, )

v. )

**AMENDED  
JUDGMENT**

No. 5:12-cv-456-F

City of Fayetteville; Shane Koehler, )  
*individually*; Jennifer Rodriguez, )  
*individually*; Phyllis Jernigan, *individually*; )  
Chief Thomas Bergamine, *in his official* )  
*capacity as Chief of FCPD and individually*; )  
Dale Inman, *in his official capacity as City* )  
*Manager and individually*; Lt. Kevin )  
Croyle; Heather St. John. )

Defendants. )

**Decision by Court.**

This action came before the Honorable James C. Fox, Senior United States District Judge, for ruling as follows:

**IT IS ORDERED, ADJUDGED AND DECREED** that pursuant to the court's order dated 3/28/2013 [DE-129], Defendant Heather St. Johns' motion to dismiss [DE-35] is DENIED in part and ALLOWED in part. The motion to dismiss filed by Defendants City of Fayetteville, Shane Koehler Jennifer Rodriguez, Phyllis Jernigan, Chief Thomas Bergamine, and Dale Inman [DE-59] is DENIED in part and ALLOWED in part. The motions to dismiss at [DE-22] and [DE-25] are DENIED as moot. The motions for judgment on the pleadings at [DE-28] and [DE-65] are DENIED as moot.

**IT IS FURTHER ORDERED** that pursuant to the court's order dated 6/19/2014 [DE-215], the motion to dismiss filed by Defendants City of Fayetteville, Shane Koehler Jennifer Rodriguez, Phyllis Jernigan, Chief Thomas Bergamine, Kevin Croyle and Dale Inman [DE-199] is DENIED in part and ALLOWED in part.

**IT IS FURTHER ORDERED** that pursuant to the court's order dated 3/4/2015 [DE-338], Defendant Heather St. Johns' motion for partial summary judgment [DE-208] is ALLOWED. The

motion for summary judgment by Defendants City of Fayetteville, Shane Koehler Jennifer Rodriguez, Phyllis Jernigan, Chief Thomas Bergamine, Kevin Croyle and Dale Inman [DE-240] is DENIED in part and ALLOWED in part. Plaintiffs' motion for summary judgment [DE-238] is DENIED.

**IT IS FURTHER ORDERED** that pursuant to the court's order dated 6/2/2015 [DE 370], Defendant Heather St. John's motions to remand and sever [DE-344] are ALLOWED. The state law negligence claim asserted by Plaintiff LaTonja Johnson is SEVERED and REMANDED to the North Carolina General Court of Justice, Superior Court Division, Cumberland County.

**IT IS FURTHER ORDERED** that pursuant to the court's order dated 6/19/2015 [DE-383], Plaintiffs' consent motion to dismiss [DE-380] is ALLOWED in part and DENIED in part. To the extent that the consent motion seeks the dismissal of claims that have already been dismissed by the court's prior orders, the motion [DE-380] is DENIED as moot. To the extent the consent motion seeks to voluntarily dismiss the three remaining claims asserted by Darwin Johnson against Shane Koehler, the motion [DE-380] is ALLOWED. All other pending motions are DENIED as moot, and the Clerk of Court is DIRECTED to remove this matter from the court's pretrial and trial calendars and close this case.

**This Judgment Filed and Entered on June 22, 2015, and Copies To:**

James H. Locus, Jr. (via CM/ECF electronic notification)  
Brian S. Cromwell (via CM/ECF electronic notification)  
Collier R. Marsh (via CM/ECF electronic notification)  
Christopher M. Thomas (via CM/ECF electronic notification)  
David L. Levy (via CM/ECF electronic notification)  
Claude Rob Wilson (via CM/ECF electronic notification)

DATE  
June 22, 2015

JULIE RICHARDS JOHNSTON, CLERK  
/s/ Jacqueline B. Grady  
(By) Jacqueline B. Grady, Deputy Clerk